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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

20 IN RE:
21
22 APPLE IDEVICE ADDRESS BOOK
23 LITIGATION

Case No. 13-cv-00453-JST

CLASS ACTION

**JOINT CASE MANAGEMENT CONFERENCE
STATEMENT**

Hernandez v. Path, Inc., No. 12-cv-1515-JST
Pirozzi v. Apple, Inc., No. 12-cv-1529-JST
Gutierrez v. Instagram, Inc., No. 12-cv-6550-JST
Espitia v. Hipster, Inc., No. 4:13-cv-432-JST
(collectively, the “Related Actions”)

Date: November 13, 2013
Time: 9:30 a.m.
Courtroom: 9, 19th Floor

1 The undersigned parties submit this Joint Case Management Statement in compliance
2 with Federal Rule of Civil Procedure 26(f) and Civil Local Rule 16-9. At the prior Case
3 Management Conference the Court instructed the parties to inform it whether the Case
4 Management Conference scheduled for November 13, 2013 would be necessary. The parties
5 have met and conferred and agree that there is no present need to conduct the conference.

6 The following is an update of the status of matters pending before the Court since the last
7 Case Management Conference on August 1, 2013:

8 1. **Protective Order.** The Court considered separate (though closely-aligned)
9 proposals for the form of an appropriate protective order to enter in this case and issued its
10 decision on that subject on October 13, 2013 (see Dkt. No. 390). Defendants have since
11 proffered a revised protective order for the Court's consideration in keeping with that decision
12 and the parties' prior stipulation (see Dkt. Nos. 375, 405). Plaintiffs wish to bring a related
13 matter to the Court's attention. In its order of October 13, 2013, the Court indicated that it
14 believed that none of plaintiffs' counsel were members of the patent bar. In fact, as noted in the
15 *Opperman* plaintiffs' earlier-filed leadership proposal, two of plaintiffs' counsel (Carl
16 Schwenker and Nick Carlin) are admitted to practice before the Patent and Trademark Office
17 (see Dkt. No. 382 at p. 29, ¶18 and p. 76, ¶11). Plaintiffs do not believe that fact requires any
18 modification of the Court's order. Defendants note that they were unaware prior to November
19 5, 2013 (when plaintiffs provided a draft of this Joint Case Management Statement) that two of
20 plaintiffs' counsel were members of the patent bar. Because Defendants are concerned with
21 protection of their respective intellectual property, Defendant Apple then requested that
22 Plaintiffs stipulate that the patent prosecution bar provisions of the proposed Protective Order
23 apply to Messrs. Schwenker and Carlin. Plaintiffs' counsel responded that Messrs. Schwenker
24 and Carlin declined to agree to the prosecution bar. Defendants nonetheless remain hopeful that
25 further discussions will lead to a resolution of this issue. In that light, Defendants respectfully
26 request that the parties be permitted additional time to attempt to resolve the issue by agreement,
27 and that if no agreed resolution is reached, that the parties then submit a very brief joint letter to
28

1 the Court outlining their respective positions and requesting any desired changes to the current
2 proposed language in the Protective Order.

3 2. **ESI Protocol.** The parties timely submitted to the Court their joint proposal for
4 an ESI Protocol in this case (see Dkt. No. 374). The Court has approved this submission (see
5 Dkt. No. 399).

6 3. **Plaintiffs' Motion to Consolidate.** In accordance with the Court's direction,
7 plaintiffs moved to consolidate the related actions (with the exception of the *Espitia* case) with
8 the first-filed *Opperman* case, and to retitle the consolidated action as *In re iDevice Address*
9 *Book Litigation* (see Dkt. No. 401). Defendants have opposed that motion (see Dkt. Nos. 408,
10 409). The Court has set this motion for hearing on December 10, 2013 at 2:00 p.m. (see Dkt.
11 No. 391).

12 4. **Kik Jurisdictional Motion.** Defendant Kik Interactive, Inc. has moved to
13 dismiss the case against it for lack of personal jurisdiction (see Dkt. No. 366). The parties have
14 fully briefed this motion (see Dkt. Nos. 384, 403; see also Dkt. Nos. 141, 203). The Court has
15 set the motion for hearing on November 13, 2013 at 9:30 a.m. (see Dkt. No. 361) The parties
16 have advised the court clerk that they are prepared to submit on the briefs. Plaintiffs note that
17 they have made a request for jurisdictional discovery. If the Court would like to hear oral
18 argument, Plaintiffs respectfully request that the motion be heard half an hour later, at 10:00
19 a.m., to accommodate a conflict with lead counsel's teaching schedule at Hastings College of
20 Law.

21 5. **Apple Motion to Dismiss.** Defendant Apple, Inc. has moved to dismiss the case
22 against it on various grounds (see Dkt. No. 395). Plaintiffs expect to timely file their opposition
23 on or before Tuesday, December 2, 2013 (see Dkt. No. 361). The Court has set the motion for
24 hearing on January 22, 2014 at 9:30 a.m. (see Dkt. No. 361).

25 6. **Other Defendants' Motions to Dismiss.** The remaining defendants have moved
26 to dismiss the actions against them on various grounds. In addition to an omnibus motion on
27 their behalf (see Dkt. No. 396), several of these defendants have moved on grounds unique to
28 them in three separate filings: One for defendant Twitter, Inc. (see Dkt. No. 397), one for

1 defendant Electronic Arts, Inc. and its related entity, defendant Chillingo Ltd., as well as
2 defendants Defendant Rovio Entertainment Ltd. s/h/a Rovio Mobile Oy and ZeptoLab UK
3 Limited (see Dkt. No. 393), and one for defendants Facebook, Inc. and Gowalla Incorporated
4 (see Dkt. No. 394). Plaintiffs expect to timely file their opposition on or before Tuesday,
5 December 2, 2013 (see Dkt. No. 361). The Court has set the motion(s) for hearing on January
6 22, 2014 at 9:30 a.m. (see Dkt. No. 361).

7 **7. Plaintiffs' Proposed Litigation Guidelines.** In accordance with the Court's
8 order on the subject (see Dkt. No. 400, at 3:20-4:3), plaintiffs' counsel have meet and conferred
9 on proposed guidelines for the conduct of litigation among the Plaintiff's Steering Committee.
10 Plaintiffs' counsel expect to submit stipulated guidelines on or before November 22, 2013, as
11 directed by the Court, for the Court's consideration.

12 **8. Other Case Management Matters.** The firm of Strange & Carpenter has
13 withdrawn from Plaintiffs' Steering Committee (see Dkt. No. 407).

14 Dated: November 6, 2013

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ATTESTATION

I, David M. Given, am the ECF user whose identification and password are being used to file the instant document. Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that all counsel whose electronic signatures appear above provided their authority and concurrence to file this document.

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